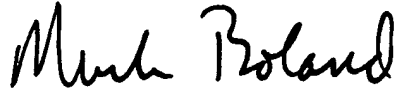




QAF  
JPW

Modified PTO/SB/33 (10-05)

<b>PRE-APPEAL BRIEF REQUEST FOR REVIEW</b>		Docket Number Q63124	
Mail Stop AF Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450	Application Number 09/809,273		Filed March 16, 2001
	First Named Inventor Hiroyuki NISHII		
	Art Unit 1774		Examiner Dawn L. Garrett
	WASHINGTON OFFICE <b>23373</b> CUSTOMER NUMBER		
Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.			
This request is being filed with a notice of appeal			
The review is requested for the reasons(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.			
<input checked="" type="checkbox"/> I am an attorney or agent of record.			
Registration number 32,197		 Signature	
		Mark Boland Typed or printed name	
		(202) 293-7060 Telephone number	
		April 21, 2006 Date	

**PATENT APPLICATION**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of

Docket No: Q63124

Hiroyuki NISHII, et al.

Appln. No.: 09/809,273

Group Art Unit: 1774

Confirmation No.: 4971

Examiner: Dawn L. Garrett

Filed: March 16, 2001

For: MEMBER FOR ELECTROLUMINESCENT DEVICE AND ELECTROLUMINESCENT  
DEVICE HAVING THE SAME

**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

**MAIL STOP AF - PATENTS**

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Sir:

Pursuant to the new Pre-Appeal Brief Conference Pilot Program, and further to the Examiner's Final Office Action dated November 22, 2005 and the Advisory Action dated March 30, 2006, Applicant files this Pre-Appeal Brief Request for Review. A Petition and payment for a four-month extension of time are attached, making this response due on or before April 22, 2006. This Request is also accompanied by the filing of a Notice of Appeal.

Applicant turns now to the rejections at issue:

Claims 5 and 6 are rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Cook (U.S. Pat. No. 3,429,717). Further, claims 5 and 6 are rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Farrell et al (U.S. Pat. No. 4,536,409). In addition, claims 3, 9, 11, 12 and 14 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Cook in view of Biebuyck et al (U.S. Pat. No. 5,734,225). Moreover, claims 3, 9, 11, 12 and 14 are

rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Farrell et al in view of Biebuyck et al. See the final Office Action dated November 22, 2005.

The Examiner's position is that the present claims are not limited to a particular pore size for a porous membrane and thus the polymers of  $\alpha$ -olefins described in Cook and the polyolefin protective layer described in Farrell et al constitute porous sheets. See the final Office Action dated November 22, 2005 and the Advisory Action dated March 30, 2006.

Appellants respectfully request the Pre-Appeal Brief conference panel to withdraw the foregoing rejections in view of clear error. Namely, the cited references, alone or in combination, do not meet one or more claim limitations.

The present invention is directed to a member for an electroluminescent device comprising a container which is made of a porous material and a non-porous material and a removing agent capable of removing a prescribed gaseous component.

In contrast, Cook discloses a multiple ply film structure with an antioxidant distributed between at least two intimately associated layers of the film of, e.g., polymers of  $\alpha$ -olefins, and a layer of nylon or polyethylene bonded or otherwise laminated to one of the layers (col. 2, lines 7-26). Further, Farrell et al discloses a multiple layer structure comprising a polymer oxygen barrier layer, an oxygen scavenger-containing polymer layer and a polyolefin protective layer (see claim 9).

The Examiner appears to consider that the term "porous" is synonymous with the phrase "gas permeable."

Appellants respectfully submit that the phrases “gas permeability” and “porous property” are understood by one of ordinary skill in the art to have different meanings.

Specifically, even a non-porous polyolefin film has some space among molecular chains, thereby allowing a gas molecule to permeate. Although the amount of gas permeated is very small, nonetheless, such non-porous polyolefin film has gas permeability. In this regard, Appellants previously submitted the English translation of relevant portions from Shin-ban Kobunshi Jiten (Dictionary of Polymer - New Edition).

On the other hand, as described in the English translation of relevant portions from Shin-ban Kobunshi Jiten, “a ‘porous’ membrane means a membrane having a certain pore size or a certain pore size distribution regardless of an organic polymer membrane or a ceramic. ... Generally, the membrane having pores of about 1 to 0.01  $\mu\text{m}$  is called a porous membrane and the membrane having pores of about 0.01 to 0.003  $\mu\text{m}$  is called a microporous membrane. ... The polymers which tends to form the porous membrane is called a porous polymer, and many of the polymer are glassy polymers.” As clearly described in Shin-ban Kobunshi Jiten, a porous membrane inherently has pores of certain sizes.

Further, the present specification describes that the porous sheet in the presently claimed invention is produced by the specified methods, and has an average pore size of generally 100  $\mu\text{m}$  or smaller, and preferably 0.05 to 50  $\mu\text{m}$ . See page 6, lines 10-20 and page 7, lines 5-8.

Thus, although the polyolefin sheets described in Cook and Farrell et al are gas permeable, they do not meet the requirements of a porous polyolefin sheet within the scope of the present claims.

In addition, Biebuyck et al does not rectify the deficiencies of Cook and Farrell et al.

In view of the foregoing, Appellants respectfully submit that Cook or Farrell et al, alone or in combination of Biebuyck et al, do not disclose the present invention. Accordingly, Appellants respectfully request withdrawal of the rejections under 35 U.S.C. §§ 102 and 103(a).

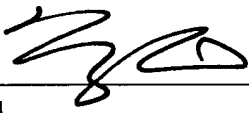
Respectfully submitted,

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WASHINGTON OFFICE

**23373**

CUSTOMER NUMBER

  
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Date: April 21, 2006